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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

16 JOHNATHAN WILLIAM MIKULA,  
17 CHRISTIAN FERNANDEZ, AMIT  
18 RAJ BERI, SWAY ENERGY  
19 CORPORATION, AVTAR SINGH  
20 DHILLON, EMERALD HEALTH  
21 PHARMACEUTICALS INC., and  
22 JAMES M. DEMESA

23 Defendants.  
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Case No. 2:22-cv-7096

**CONSENT TO ENTRY OF FINAL  
JUDGMENT BY AMIT RAJ BERI**

1           1. Defendant Amit Raj Beri a/k/a Raj Beri (“Defendant”) waives service of  
2 a summons and the complaint in this action, enters a general appearance, and admits  
3 the Court’s jurisdiction over Defendant and over the subject matter of this action.

4           2. Without admitting or denying the allegations of the complaint (except as  
5 to personal and subject matter jurisdiction, which Defendant admits), Defendant  
6 hereby consents to the entry of the final Judgment in the form attached hereto (the  
7 “Final Judgment”) and incorporated by reference herein, which, among other things:

- 8           (a) permanently restrains and enjoins Defendant from violations of  
9 Sections 5, 17(a), and 17(b) of the Securities Act of 1933  
10 (“Securities Act”) [15 U.S.C. §§ 77e, 77q(a), and 77q(b)] and  
11 Section 10(b) [15 U.S.C. §78j(b)] of the Securities Exchange Act  
12 of 1934 (“Exchange Act”) and Rule 10b-5 thereunder [17 C.F.R.  
13 § 240.10b-5];  
14           (b) permanently restrains and enjoins Defendant from, directly or  
15 indirectly, participating in a paid promotional campaign unless an  
16 experienced securities lawyer (“Securities Counsel”) reviews the  
17 arrangement and affirms in writing that the arrangement is  
18 consistent with applicable U.S. securities laws and  
19 regulations. For purposes of this injunction, “Promotional  
20 Campaign” means an effort, the goal of which is to generate  
21 interest in any security by, directly or indirectly, publishing,  
22 giving publicity to, or circulating any form of written  
23 communication, whether electronic or hard copy, which, though  
24 not purporting to offer a security for sale, describes such security;  
25           (b) orders Defendant to pay disgorgement in the amount of  
26 \$960,314.96, plus prejudgment interest thereon in the amount of  
27 \$38,979.24;  
28           (c) orders Defendant to pay a civil penalty in the amount of \$207,183

1 under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and  
2 Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and  
3 (d) prohibits Defendant, for ten (10) years following the entry of the  
4 Final Judgment, from acting as an officer or director of any issuer  
5 that has a class of securities registered pursuant to Section 12 of  
6 the Exchange Act [15 U.S.C. § 78l], or that is required to file  
7 reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C.  
8 § 78o(d)].

9 3. Defendant acknowledges that the civil penalty paid pursuant to the Final  
10 Judgment may be distributed pursuant to the Fair Fund provisions of Section 308(a)  
11 of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund  
12 distribution is made, the civil penalty shall be treated as a penalty paid to the  
13 government for all purposes, including all tax purposes. To preserve the deterrent  
14 effect of the civil penalty, Defendant agrees that he shall not, after offset or reduction  
15 of any award of compensatory damages in any Related Investor Action based on  
16 Defendant's payment of disgorgement in this action, argue that he is entitled to, nor  
17 shall he further benefit by, offset or reduction of such compensatory damages award  
18 by the amount of any part of Defendant's payment of a civil penalty in this action  
19 ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty  
20 Offset, Defendant agrees that he, shall, within 30 days after entry of a final order  
21 granting the Penalty Offset, notify the Commission's counsel in this action and pay  
22 the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as  
23 the Commission directs. Such a payment shall not be deemed an additional civil  
24 penalty and shall not be deemed to change the amount of the civil penalty imposed in  
25 this action. For purposes of this paragraph, a "Related Investor Action" means a  
26 private damages action brought against Defendant by or on behalf of one or more  
27 investors based on substantially the same facts as alleged in the Complaint in this  
28 action.

1           4. Defendant agrees that he shall not seek or accept, directly or indirectly,  
2 reimbursement or indemnification from any source, including but not limited to  
3 payment made pursuant to any insurance policy, with regard to any civil penalty  
4 amounts that Defendant pays pursuant to the Final Judgment, regardless of whether  
5 such penalty amounts or any part thereof are added to a distribution fund or otherwise  
6 used for the benefit of investors. Defendant further agrees that he shall not claim,  
7 assert, or apply for a tax deduction or tax credit with regard to any federal, state, or  
8 local tax for any penalty amounts that Defendant pays pursuant to the Final  
9 Judgment, regardless of whether such penalty amounts or any part thereof are added  
10 to a distribution fund or otherwise used for the benefit of investors.

11           5. Defendant waives the entry of findings of fact and conclusions of law  
12 pursuant to Rule 52 of the Federal Rules of Civil Procedure.

13           6. Defendant waives the right, if any, to a jury trial and to appeal from the  
14 entry of the Final Judgment.

15           7. Defendant enters into this Consent voluntarily and represents that no  
16 threats, offers, promises, or inducements of any kind have been made by the  
17 Commission or any member, officer, employee, agent, or representative of the  
18 Commission to induce Defendant to enter into this Consent.

19           8. Defendant agrees that this Consent shall be incorporated into the Final  
20 Judgment with the same force and effect as if fully set forth therein.

21           9. Defendant will not oppose the enforcement of the Final Judgment on the  
22 ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of  
23 Civil Procedure, and hereby waives any objection based thereon.

24           10. Defendant waives service of the Final Judgment and agrees that entry of  
25 the Final Judgment by the Court and filing with the Clerk of the Court will constitute  
26 notice to Defendant of its terms and conditions. Defendant further agrees to provide  
27 counsel for the Commission, within thirty days after the Final Judgment is filed with  
28 the Clerk of the Court, with an affidavit or declaration stating that Defendant has

1 received and read a copy of the Final Judgment.

2        11. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims  
3 asserted against Defendant in this civil proceeding. Defendant acknowledges that no  
4 promise or representation has been made by the Commission or any member, officer,  
5 employee, agent, or representative of the Commission with regard to any criminal  
6 liability that may have arisen or may arise from the facts underlying this action or  
7 immunity from any such criminal liability. Defendant waives any claim of Double  
8 Jeopardy based upon the settlement of this proceeding, including the imposition of  
9 any remedy or civil penalty herein. Defendant further acknowledges that the Court's  
10 entry of a permanent injunction may have collateral consequences under federal or  
11 state law and the rules and regulations of self-regulatory organizations, licensing  
12 boards, and other regulatory organizations. Such collateral consequences include, but  
13 are not limited to, a statutory disqualification with respect to membership or  
14 participation in, or association with a member of, a self-regulatory organization. This  
15 statutory disqualification has consequences that are separate from any sanction  
16 imposed in an administrative proceeding. In addition, in any disciplinary proceeding  
17 before the Commission based on the entry of the injunction in this action, Defendant  
18 understands that he shall not be permitted to contest the factual allegations of the  
19 complaint in this action.

20        12. Defendant understands and agrees to comply with the terms of 17 C.F.R.  
21 § 202.5(e), which provides in part that it is the Commission's policy "not to permit a  
22 defendant or respondent to consent to a judgment or order that imposes a sanction  
23 while denying the allegations in the complaint or order for proceedings," and "a  
24 refusal to admit the allegations is equivalent to a denial, unless the defendant or  
25 respondent states that he neither admits nor denies the allegations." As part of  
26 Defendant's agreement to comply with the terms of Section 202.5(e), Defendant: (i)  
27 will not take any action or make or permit to be made any public statement denying,  
28 directly or indirectly, any allegation in the complaint or creating the impression that

1 the complaint is without factual basis; (ii) will not make or permit to be made any  
2 public statement to the effect that Defendant does not admit the allegations of the  
3 complaint, or that this Consent contains no admission of the allegations, without also  
4 stating that Defendant does not deny the allegations; and (iii) upon the filing of this  
5 Consent, Defendant hereby withdraws any papers filed in this action to the extent that  
6 they deny any allegation in the complaint. If Defendant breaches this agreement, the  
7 Commission may petition the Court to vacate the Final Judgment and restore this  
8 action to its active docket. Nothing in this paragraph affects Defendant's: (i)  
9 testimonial obligations; or (ii) right to take legal or factual positions in litigation or  
10 other legal proceedings in which the Commission is not a party.

11 13. Defendant hereby waives any rights under the Equal Access to Justice  
12 Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other  
13 provision of law to seek from the United States, or any agency, or any official of the  
14 United States acting in his or her official capacity, directly or indirectly,  
15 reimbursement of attorney's fees or other fees, expenses, or costs expended by  
16 Defendant to defend against this action. For these purposes, Defendant agrees that  
17 Defendant is not the prevailing party in this action since the parties have reached a  
18 good faith settlement.

19 14. In connection with this action and any related judicial or administrative  
20 proceeding or investigation commenced by the Commission or to which the  
21 Commission is a party, Defendant (i) agrees to appear and be interviewed by  
22 Commission staff at such times and places as the staff requests upon reasonable  
23 notice; (ii) will accept service by mail or facsimile transmission of notices or  
24 subpoenas issued by the Commission for documents or testimony at depositions,  
25 hearings, or trials, or in connection with any related investigation by Commission  
26 staff; (iii) appoints Defendant's undersigned attorney as agent to receive service of  
27 such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives  
28 the territorial limits on service contained in Rule 45 of the Federal Rules of Civil



1 Procedure and any applicable local rules, provided that the party requesting the  
2 testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-  
3 prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction  
4 over Defendant in any United States District Court for purposes of enforcing any  
5 such subpoena.

6 15. Defendant agrees that the Commission may present the Final Judgment  
7 to the Court for signature and entry without further notice.

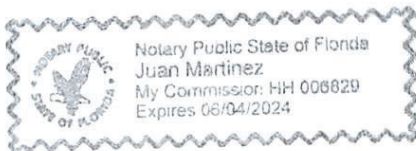
8 16. Defendant agrees that this Court shall retain jurisdiction over this matter  
9 for the purpose of enforcing the terms of the Final Judgment.

10  
11 Dated: September 12, 2022

  
Amit Raj Beri

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14 On September 12<sup>th</sup>, 2022, Amit Raj Beri, a person known to me, personally  
15 appeared before me and acknowledged executing the foregoing Consent.

*Australia Passport exp. 04/ Apr 2027*



Notary Public  
Commission expires:

  
*06/04/2024*

20 Approved as to form:

21  
22  
23 David DeJute  
24 Michelman & Robinson, LLP  
25 10880 Wilshire Blvd, 19<sup>th</sup> Floor  
26 Los Angeles, CA 90024  
27 Attorney for Defendant  
28

1 Procedure and any applicable local rules, provided that the party requesting the  
2 testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-  
3 prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction  
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5 such subpoena.

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9 for the purpose of enforcing the terms of the Final Judgment.


10  
11 Dated: September \_\_, 2022

12 \_\_\_\_\_  
Amit Raj Beri

13  
14 On September \_\_, 2022, Amit Raj Beri, a person known to me, personally  
15 appeared before me and acknowledged executing the foregoing Consent.

16  
17 Notary Public  
18 Commission expires:  
19

20 Approved as to form:

21   
22 \_\_\_\_\_

23 David DeJute  
24 Michelman & Robinson, LLP  
25 10880 Wilshire Blvd, 19<sup>th</sup> Floor  
26 Los Angeles, CA 90024  
27 Attorney for Defendant  
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